

WELCOME!

**PLEASE HAVE A SEAT
OUR PRESENTATION
WILL BEGIN IN A
MOMENT**



HOW THE FLORIDA DEPARTMENT OF TRANSPORTATION LOOKS AT HISTORICAL TITLE



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SUZETTE HICKS**



HOW THE FLORIDA DEPARTMENT OF TRANSPORTATION LOOKS AT HISTORICAL TITLE



1. WHERE DOES A CHAIN OF TITLE START?
2. WHAT LEVEL OF TITLE DOES THE DEPARTMENT REQUIRE?
3. RECOGNIZE LIENS, ENCUMBRANCES AND OTHER INTERESTS THAT AFFECT TITLE
4. WHAT IS UNIQUE TO THE FDOT?

THREE MAIN SOURCES OF ORIGINAL TITLE



❖ ***Spanish Land Grants*** – Before 1821, land was granted by the King of Spain or his representatives. Between 1821 and 1845, individuals filed claims on the lands to perfect their title [Spanish grant.pdf](#)



❖ ***United States Patents*** – After 1821, the United States granted patents to settlers

[USA Deed 1844.pdf](#), [USA Deed 1855.pdf](#)



❖ ***State of Florida Deeds*** – After 1845, State of Florida could deed property

[State of Florida Deed 1883.pdf](#)



HOW CAN TITLE BE HELD?



➤ INDIVIDUAL

- **Tenants by the Entirety** – Can only be husband and wife
 - If one dies, the other owns 100%
 - Homestead – Need marital status on deeds
- **Joint Tenants with Rights of Survivorship** – 2 or more people hold title jointly with clearly stated rights of survivorship
- **Tenants in Common** – Co-ownership, with no rights of survivorship
 - If one dies, we need their probate completed

➤ Corporations

➤ Limited Liability Companies

➤ Limited Partnerships

➤ General Partnerships

➤ Trusts

➤ Churches

➤ Estates

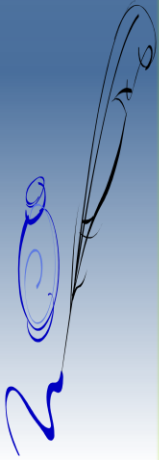




IMPORTANT DEED ELEMENTS

- ❖ **Grantor/Grantee** – Need to be capable of conveying and accepting title. Legal Existence is needed. Same entity that acquired the property.
- ❖ **Legal Description** – A valid legal description along with the county the property lies in.
- ❖ **Granting Clause** – Statutory warranty deed uses the words “has granted, bargained and sold”, but you can use “release”, “quitclaim”, “transfer” also
- ❖ **Signatures** – Should contain the signature, along with their name printed.

IMPORTANT DEED ELEMENTS



❖ **Witnesses** – When a deed is executed by natural persons, you need 2 witnesses for each signer of the deed, who are not the grantor or the grantee. There are different rules for business entities.

❖ **Acknowledgment & Proof** – A notary public of the state where executed, whose certification has not expired

❖ **Recitals** – Also known as “subject to” provisions

❖ **Date of Execution** – Ideally, execution date should match acknowledgment date, and be after grantor acquires property. However, an undated deed does not affect validity.

❖ **Delivery & Acceptance** – A conveyance is ineffective until the instrument is delivered. Usually this is assumed to be the recording date & time.

LEVEL OF TITLE REQUIRED BY THE FLORIDA DEPARTMENT OF TRANSPORTATION

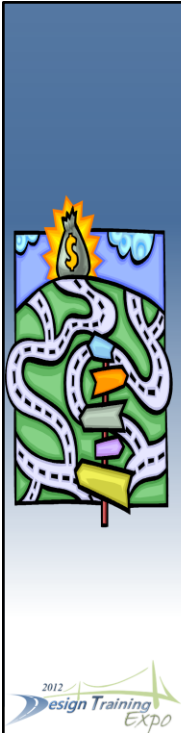
❖ **Marketable Title** – Title that is free from reasonable doubt and will not expose the Department to hazards of litigation.

❖ **Negotiated Parcels**

- Free and Clear of all Liens
- All Interests must be acquired or released by execution and delivery of appropriate documents - Recorded

❖ **Condemnation Parcels** – Owners and Holders of all interests must be named in the suit





MARKETABLE RECORD TITLE ACT

CHAPTER 712 F.S.
EFFECTIVE JULY 1, 1965

➤ **Purpose**

- To clear a record Chain of Title of adverse claims arising from prior documentary evidence - on record 30 years

➤ **Exceptions**

- **Easements** – recorded or unrecorded
- **Trustee of the Internal Improvement Trust Fund** -
Murphy Reservations [Murphy Deed with Road Easement Only.pdf](#),
[Murphy Deed with Petroleum & Road Easement.pdf](#)
- **Restrictions on Plats**
- **Interests preserved by Notice**
- **Rights of Parties in Possession**
- **Any interest subsequent to the root of title**
- **Tax Rolls** – rights of any person assessed on the tax rolls
- **State Title to Sovereignty Lands**
- **Reservations in Original Grant**
- **Mineral Rights**

LIENS, ENCUMBRANCES AND OTHER INTEREST THAT CAN AFFECT TITLE



END
EXPRESSWAY



- **Mortgages/Foreclosures** - Numerous foreclosures in the last few years - more then ever before.
- **Assignments of Mortgage** - 1990's poor record keeping regarding assignment of mortgages - unable to follow on the public records -causing problems with foreclosure - creating additional work to locate who really owns the mortgage
- **Judgments** - do they affect the parcel -when can they be ignored
- **Taxes** - All taxes must be current prior to the purchase by the Department -are there any delinquent taxes - have certificates been sold
- **Liens** - Federal Tax Liens - Code Enforcement Liens - Claim of Liens - Etc.
- **Easements** - Encumbering parcel - who benefits from the easement- may be very old but who has the rights today -
- **Bankruptcy** -filing stops everything - Department would need court order authorizing sale or condemnation suit-
- **Notice of Commencements** - Must be dismissed from parcel prior to closing - complicated process

LIENS, ENCUMBRANCES AND OTHER INTEREST THAT CAN AFFECT TITLE



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- **Leases** - partial acquisition - does lease cover area Department is interested in purchasing - review lease
- **Incompetency** - need court order appointing Guardian
- **Guardianship** - Minors - Natural parents - however, monetary limits before court order is necessary
- **Subsurface Rights** - mineral rights - right to enter
- **Life Estates** - right to live in property till death - does not have fee ownership - needs to convey to the Department along with fee owner - can be transferred to another person
- **Restrictions** - Department purchasing - will need to figure property owner's dues in perpetuity
- **Murphy Reservations** - easement reserved to State Road Department - benefit to the Department

.....*And Many More*.....

UNIQUE TO THE FDOT



➤ ***Exceptions to MRTA***

- Murphy Deeds
- Governmental interests

➤ ***Easement*** – Must know the benefitted party

➤ ***FDOT must have the superior interest*** - very few exceptions -Obtain Subordinations

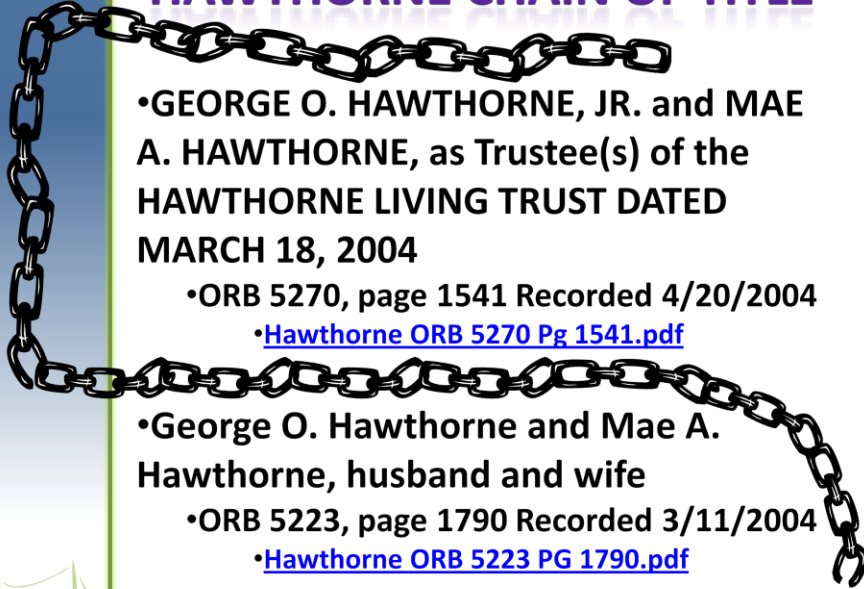


CHAIN OF TITLE



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HAWTHORNE CHAIN OF TITLE



- GEORGE O. HAWTHORNE, JR. and MAE A. HAWTHORNE, as Trustee(s) of the HAWTHORNE LIVING TRUST DATED MARCH 18, 2004

- ORB 5270, page 1541 Recorded 4/20/2004

- [Hawthorne ORB 5270 Pg 1541.pdf](#)

- George O. Hawthorne and Mae A. Hawthorne, husband and wife

- ORB 5223, page 1790 Recorded 3/11/2004

- [Hawthorne ORB 5223 PG 1790.pdf](#)



HAWTHORNE CHAIN OF TITLE

- W. T. Haynie

- Death Certificate of Margaret in ORB 5223, page 1788

- W. T. Haynie and Margaret Haynie, his wife

- ORB 1106, page 1146 Recorded 12/15/1976

- [Hawthorne ORB 1106 PG 1146.pdf](#)

- Robert A. Loggins and Edna Loggins, his wife

HAWTHORNE CHAIN OF TITLE

- Edna Loggins

- ORB 141, page 384 Recorded 10/29/1957

- [Hawthorne ORB 141 PG 384.pdf](#)

- Elizabeth Reid

- ORB 7, page 411 Recorded 3/26/1954

- [Hawthorne ORB 7 PG 411.pdf](#)

- State of Florida

- [FUND Printout.pdf](#)

Seminole County Clerk of the Court

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Search Results

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Verified as of 05/09/2012

(Displaying 21-40 of 57 Records)

* Designates From Party Records In Color: Not Verified Record, Replaced Record, Correction Record Click View to See

Document Details Click on any Data Element to Filter

Detail	Party Name	Date	Type	Book	Page	Legal Description	File No.	Status	Flag
View	HAWTHORNE,GEORGE O JR	05/10/2000	M	3847	1758	PRT SE1/4 SE1/4 NW1/4 SEC	2000-534567	V	
View	HAWTHORNE,GEORGE O JR	05/31/2002	R	4422	1328	TAX LIEN 2430/1772	2002887266	V	
View	HAWTHORNE,GEORGE O JR	07/16/2002	M	4462	1100	SEC 36-19-29 ETC	2002909386	V	
View	HAWTHORNE,GEORGE O JR	07/24/2002	SAT	4469	1858	3847/1758	2002913573	V	
View	HAWTHORNE,GEORGE O JR	12/08/2004	D	5538	1700	SEC 36-19-28 ETC	2004188397	V	
View	HAWTHORNE,GEORGE O JR	01/20/2005	D	5585	1764	CORRECTIVE SEC 36-19-29 ETC	2005010070	V	



Detail	Party Name	Date	Type	Book	Page	Legal Description	File No.	Status	Flag
View	HAWTHORNE,GEORGE O JR IND & TRUSTEE	09/07/2006	D	6399	1238	L15 BD SEMINOLE SITES	2006144318	V	
View	HAWTHORNE,GEORGE O JR IND & TRUSTEE	09/08/2011	D	7628	1908	L172-176 1ST ADD TO SYLVAN LAKE	2011096237	V	
View book 5270.p df	HAWTHORNE,GEORGE O JR TRUSTEE	04/20/2004	D	5270	1541	L172-176 1ST ADD TO SYLVAN LAKE	2004058872	V	
View	Hawthorne,george o jr trustee	04/20/2004	Mm	5270	1543	L172-176 1st add to sylvan lake	2004058873	V	
View	HAWTHORNE,GEORGE O JR TRUSTEE	12/08/2004	D	5538	1700	SEC 36-19-28 ETC	2004188397	V	
View	HAWTHORNE,GEORGE O JR TRUSTEE	01/20/2005	D	5585	1764	CORRECTIVE SEC 36-19-29 ETC	2005010070	V	
View	HAWTHORNE,GEORGE O JR TRUSTEE	10/21/2005	AFF	5963	751	L143 HILLS OF LAKE MARY PH ONE	2005183431	V	



WEBSITES



- **Spanish Land Grants:**

- <http://www.floridamemory.com/Collections/SpanishLandGrants/>

- **State of Florida Documents:**

- <http://199.73.242.56/>

- **Federal Land Patents:**

- <http://www.glorerecords.blm.gov/>

- **Florida Corporate Status:**

- <http://www.sunbiz.org/>

- **Bank Website:**

- <http://www.ffiec.gov/nicpubweb/nicweb/SearchForm.aspx>



QUESTIONS?

THANK YOU!

